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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,994	07/25/2001	Jean-Paul Cervený	PVMT1	4697

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EXAMINER

CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/889,994

Applicant(s)

CERVENY, JEAN-PAUL

Examiner

MONZER R. CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This non-final action is in response to the reply received on 12/21/2005

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 31-33, 45-55, 58-59 and 61-62 are rejected under 35 U.S.C. 102(b) as being anticipated by Spurlin (U.S.P.N. 2,760,405).

Regarding claim 1, the Spurlin reference discloses a device (see figure 1 and col.3, lines 40-46) capable of sterilizing stoppers that includes a helical path (col.1, lines 40-49) between the inlet (figure 1:21) and the outlet (figure 1:23).

Regarding claims 31-33, the Spurlin reference teaches the following: the machine defines a longitudinal axis (imaginary longitudinal axis of the machine in figure 1), both ends of the machine oppose each other (figure 1: 21 and 23), the machine includes three successive and coaxial sterilizing (col.3, lines 34-38), rinsing (col.3, lines 12-14) and drying sections (col.1, lines 50-52) and the stoppering parts are in contact with a rotating member (col.3, lines 3-4).

Regarding claims 45-55, 58-59 and 61-62, the Spurlin reference discloses the following: steam as the driving fluid (col.3, lines 34-36), air as the driving fluid (col.3, lines 34-35), a stationary drum (figure 1:16), a helical slideway secured to and wound on the exterior wall of the stationary drum (figure 1:18), a hollow and stationary

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cylindrical sleeve (figure 1:36) surrounding both the helical slideway and the stationary drum such that a slit in the cylindrical sleeve (unlabeled space in tank 36 where outlet pipe 46 is constructed in figure 1) represents an outlet, a perforated flexible metal strip sole (unlabeled perforated region in figure 3), a profiled separation positioned and welded into a helical groove on the stationary drum (unlabeled elevated walls along the helical path in both 18 and 20 in figure 1), plurality of identical modules assembled in series (col.1, lines 63-64), a hopper (col.1, line 64), an inlet fluid tube (figure 1:42) that is capable of being coupled with the outlet fluid (figure 1:46), a standard module (figure 1:36 and 16) having plurality of turns (figure 1:20 and 18), the cylindrical sleeve has oblong-shaped discharge holes (unlabeled oblong holes in outlet 23 in figure 1) and the longitudinal axis is arranged horizontally (when device in figure 1 is placed on its side then it has an imaginary horizontal axis).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 34-44, 56-57 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spurlin (U.S.P.N. 2,760,405) as applied to claims 34 and 55 and further in view of Back (U.S.P.N. 2,314,871).

With respect to claims 34, 38 and 44, the Spurlin reference teaches the following: helical slideway secured to the exterior wall a stationary drum (figure 1:16 and 18), helical slideway has a U-shaped profile that is open toward the hollow cylindrical sleeve (unlabeled right end bottom section of track 20 in figure 1), sterilizing liquid is collected in the lower part of the stationary drum that is offset with respect to a vertical plane of symmetry of the stationary drum (unlabeled end of outlet pipe 49 that is offset with respect to the vertical plane of symmetry of tank 36 in figure 1). However, the Spurlin fails to teach the use of a rotating hollow cylindrical sleeve having a groove. The Back reference teaches the use of a rotating hollow cylindrical sleeve (figure 2:17) having a groove (where helical strips 19 meet with inner wall of the drum 17 in figure 1). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a rotating drum to the rotating conveyor of the Spurlin reference in order to maximize the flow rate of materials being treated entering and leaving the Spurlin device.

With respect to claims 35-37, 56 and 60, the Spurlin reference teaches a helical slideway has a bottom section that includes a sole with a plurality of holes (figure 3:35), the stationary drum has a defined radius (imaginary radius of tank 36 in figure 1) and an air inlet with a nozzle (unlabeled opening into which inlet pipe 41 is constructed in figure

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1). The Spurlin reference fails to teach the use of nozzles. The Back reference teaches the use of nozzles. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add nozzles into Spurlin's machine in order to wash materials conveyed through the machine (page 3, right column, lines 32-37).

With respect to claim 40, the Spurlin reference discloses a pipe (figure 1:49) and a heater (figure 1:44), but fails to teach the use of a filter. The Back reference teaches the use of (figure 4:54). Clearly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a filter to the Spurlin's machine so that items of small dimensions are prevented from being discharged into the used sterilizing liquid outlet.

Regarding claims 39, 41-43 and 57, the Spurlin reference teaches the following: a barrier (unlabeled lower surface of pan 31 in figure 1), the helical slideway provides transitions between sections within the device (figure 1:18, 20, col.1, lines 50-65), a pressure-equalizing chamber is formed by a wall that is parallel to a wall defined by the stationary drum (unlabeled space between 36, 18 and 20) into which sterilizing liquid is injected (figure 1:41) and orifices are provided in a bottom part of the turns (figure 3:35).

Response to Arguments

6. Applicant's arguments with respect to claims 30-62 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Minbiole (U.S.P.N. 3,620,813) reference and the Zucchini (U.S.P.N. 5,098,447) reference teach helical structures in the art of treating fluids and the Petho (U.S.P.N. 4,958,649) teaches a stationary cylindrical sleeve.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji 
AU 1744
05/11/2006


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